

*NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.*

**Comprehensive Healthcare Management Services,  
LLC d/b/a Brighton Rehabilitation and Wellness  
Center and SEIU Healthcare Pennsylvania.**  
Cases 06-CA-208544 and 06-CA-210861

February 21, 2019

**DECISION AND ORDER**

BY MEMBERS MCFERRAN, KAPLAN, AND EMANUEL

The General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. Upon a charge filed in Case 06-CA-208544 on October 23, 2017, and amended on March 27, 2018, and a charge filed in Case 06-CA-210861 on December 2, 2017, and amended on March 27, 2018, the General Counsel issued a consolidated complaint (complaint) on March 29, 2018, against Comprehensive Healthcare Management Services, LLC d/b/a Brighton Rehabilitation and Wellness Center (the Respondent), alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. The Respondent failed to file an answer.

On April 23, 2018, the General Counsel filed a Motion for Default Judgment with the Board. Thereafter, on April 25, 2018, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Default Judgment**

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively stated that unless an answer was received by April 12, 2018, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the undisputed allegations in the General Counsel's motion disclose that by letter dated April 13, 2018, the Region advised the Respondent that unless an answer was filed by close of business on the third business day following receipt of the letter, a motion for default judgment would be filed. The Respondent again failed to file an answer.

In the absence of good cause being shown for the failure to file an answer, we deem the allegations in the complaint to be admitted as true, and we grant the General Counsel's Motion for Default Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

The Respondent, a limited liability corporation with an office and place of business located at 246 Friendship Circle, Beaver, Pennsylvania (the Respondent's facility), is engaged in the operation of a nursing home.

In conducting its operations during the 12-month period ending September 30, 2017, the Respondent derived gross revenues in excess of \$100,000.

In conducting its operations during the 12-month period ending September 30, 2017, the Respondent purchased and received at its Beaver, Pennsylvania facility goods valued in excess of \$50,000 directly from suppliers located outside the Commonwealth of Pennsylvania.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and a health care institution within the meaning of Section 2(14) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

At all material times, Jan Kelly held the position of the Respondent's director of human resources and has been a supervisor of the Respondent within the meaning of Section 2(11) of the Act and an agent of the Respondent within the meaning of Section 2(13) of the Act.

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time non-professional employees in the Laundry, Maintenance (including maintenance assistant managers), Dietary, Nursing Services (Licensed Practical Nurse, Certified Nursing Assistants, Respiratory Specialists Licensed Practical Nurses (vent LPNs) and Hospitality Aides)\*, Recreational Therapy, Restorative, Central Supply Departments, employed at Respondent's Beaver, Pennsylvania facility; excluding Managers, supervisors, first-level supervisors, confidential employees, guards, and employees hired on a seasonal or temporary basis, that is employees hired for a definite limited time for a period of less than ninety (90) calendar days, casual employees employed in positions other than nursing.

\*Also included are non-professional employees employed on a casual basis in Nursing Services (Licensed Practical Nurse, Certified Nursing Assistants, Respiratory Specialists Licensed Practical Nurses (vent LPNs)).

Since about March 1, 2014, and at all material times, the Respondent has recognized the Union as the exclusive collective-bargaining representative of the unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from April 1, 2017, to September 30, 2021.

At all times since March 1, 2014, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

Since about August 24, 2017, the Union has requested orally that the Respondent furnish the Union with the following information: a list of the RNs in the unit and a list of the employees in the job classifications which were included in the unit as a result of the unit clarification proceeding in Case 06-UC-194427.

Since about November 17, 2017, the Union has requested by electronic mail message that the Respondent furnish the Union with the following information:

- (1) Copy of Elizabeth Henry's personnel file;
- (2) Copies of all disciplines issued to any employee (union or non- since the social media policy applies to both) who was charged with violating any section of the social media policy;
- (3) With regard to number 2 above, provide any notes of investigations, emails, correspondence, etc. related to such disciplines; and
- (4) Copies of all communications (or written memorialization of any oral communications) received by or known to the Employer referring or relating to the Facebook post for which Elizabeth Henry was discharged.

The information requested by the Union, as described above, is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit.

From about August 24 to about November 21, 2017, the Respondent unreasonably delayed in providing the Union with the information requested by it on about August 24, 2017.

Since about November 17, 2017, the Respondent has failed and refused to furnish the Union with the information requested by it on about that date.

Since about August 28, 2017, the Respondent has refused to schedule dates to bargain with the Union as the exclusive collective-bargaining representative of the employees in the unit regarding the job classifications included in the unit as a result of the unit clarification proceeding in Case 06-UC-194427.

#### CONCLUSION OF LAW

By the conduct described above, the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(5) and (1) of the Act. The Respondent's unfair labor practices described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

#### REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent violated Section 8(a)(5) and (1) by failing and refusing to furnish and by unreasonably delaying in furnishing information that is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit, we shall order the Respondent to provide the Union with the requested information in a timely manner. Having also found that the Respondent violated Section 8(a)(5) and (1) by refusing to schedule dates to bargain with the Union regarding the job classifications included in the unit as a result of the unit clarification in Case 06-UC-194427, we shall order the Respondent to bargain with the Union in good faith as the exclusive collective-bargaining representative of the employees in the bargaining unit.

#### ORDER

The National Labor Relations Board orders that the Respondent, Comprehensive Healthcare Management Services, LLC d/b/a Brighton Rehabilitation and Wellness Center, Beaver, Pennsylvania, its officers, agents, successors, and assigns, shall

##### 1. Cease and desist from

(a) Failing and refusing to bargain collectively and in good faith with SEIU Healthcare Pennsylvania by failing and refusing to furnish and by unreasonably delaying in furnishing it with requested information that is relevant and necessary to the Union's performance of its functions as the exclusive collective-bargaining representative of employees in the bargaining unit.

(b) Failing and refusing to bargain with the Union as the exclusive collective-bargaining representative of the employees in the unit regarding the job classifications included in the unit as a result of the unit clarification proceeding in Case 06-UC-194427.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish to the Union in a timely manner the information requested by the Union on November 17, 2017.

(b) On request, bargain with the Union as the exclusive collective-bargaining representative of the employees in the following appropriate unit regarding the job classifications included in the unit as a result of the unit clarification proceedings in Case 06-UC-194427 and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time non-professional employees in the Laundry, Maintenance (including maintenance assistant managers), Dietary, Nursing Services (Licensed Practical Nurse, Certified Nursing Assistants, Respiratory Specialists Licensed Practical Nurses (vent LPNs) and Hospitality Aides)\*, Recreational Therapy, Restorative, Central Supply Departments, employed at Respondent's Beaver, Pennsylvania facility; excluding Managers, supervisors, first-level supervisors, confidential employees, guards, and employees hired on a seasonal or temporary basis, that is employees hired for a definite limited time for a period of less than ninety (90) calendar days, casual employees employed in positions other than nursing.

\*Also included are non-professional employees employed on a casual basis in Nursing Services (Licensed Practical Nurse, Certified Nursing Assistants, Respiratory Specialists Licensed Practical Nurses (vent LPNs)).

(c) Within 14 days after service by the Region, post at its Beaver, Pennsylvania facility copies of the attached notice marked "Appendix."<sup>1</sup> Copies of the notice, on forms provided by the Regional Director for Region 6, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone

out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since August 24, 2017.

(d) Within 21 days after service by the Region, file with the Regional Director for Region 6 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. February 21, 2019

Lauren McFerran, Member

Marvin E. Kaplan, Member

William J. Emanuel, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

## APPENDIX

### NOTICE TO EMPLOYEES

#### POSTED BY ORDER OF THE

#### NATIONAL LABOR RELATIONS BOARD

#### An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

### FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT refuse to bargain collectively with SEIU Healthcare Pennsylvania by failing and refusing to furnish and by unreasonably delaying in furnishing the Union with requested information that is relevant and necessary to the Union's performance of its functions as the exclusive collective-bargaining representative of our unit employees.

<sup>1</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

WE WILL NOT fail and refuse to bargain with the Union as the exclusive collective-bargaining representative of our unit employees regarding the job classifications included in the unit as a result of the unit clarification proceeding in Case 06-UC-194427.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL furnish to the Union in a timely manner the information requested by the Union on November 17, 2017.

WE WILL, on request, bargain with the Union as the exclusive collective-bargaining representative of our employees in the following appropriate unit regarding the job classifications included in the unit as a result of the unit clarification proceeding in Case 06-UC-194427 and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time non-professional employees in the Laundry, Maintenance (including maintenance assistant managers), Dietary, Nursing Services (Licensed Practical Nurse, Certified Nursing Assistants, Respiratory Specialists Licensed Practical Nurses (vent LPNs) and Hospitality Aides)\*, Recreational Therapy, Restorative, Central Supply Departments, employed at Respondent's Beaver, Pennsylvania facility; excluding Managers, supervisors, first-level supervisors, confidential employees, guards, and employees hired on a seasonal or temporary basis, that is

employees hired for a definite limited time for a period of less than ninety (90) calendar days, casual employees employed in positions other than nursing.

\*Also included are non-professional employees employed on a casual basis in Nursing Services (Licensed Practical Nurse, Certified Nursing Assistants, Respiratory Specialists Licensed Practical Nurses (vent LPNs)).

COMPREHENSIVE HEALTHCARE  
MANAGEMENT SERVICES, LLC D/B/A  
BRIGHTON REHABILITATION AND  
WELLNESS CENTER

The Board's decision can be found at <http://www.nlr.gov/case/06-CA-208544> or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570, or by calling (202) 273-1940.

